

HOUSE BILL NO. 133

INTRODUCED BY L. JENT

BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN ENHANCED RETIREMENT BENEFIT CALLED A PROFESSIONAL RETIREMENT OPTION FOR MEMBERS OF THE TEACHERS' RETIREMENT SYSTEM WHO CONTINUE TO TEACH AFTER REACHING NORMAL RETIREMENT ELIGIBILITY; PROVIDING A STATE CONTRIBUTION AND A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 19-20-801, 19-20-802, AND 19-20-804, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; [section 5]; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,

1 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 2 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 3 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 4 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 5 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
 6 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
 7 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
 8 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
 9 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710
 10 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December
 11 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

12

13 **Section 2.** Section 19-20-801, MCA, is amended to read:

14 **"19-20-801. Eligibility for service retirement or professional retirement option.** (1) A member ~~who~~
 15 is eligible for a service retirement allowance under 19-20-804(1)(a) if the member:

16 (a) has at least 5 full years of creditable service and ~~who~~ has attained the age of 60; or

17 (b) has been credited with full-time or part-time creditable service in 25 or more years ~~may retire from~~
 18 ~~service if the member has.~~

19 (2) (a) Except as provided in subsection (2)(b), a member with 30 or more years of creditable service,
 20 who is at least 55 years of age, and who retires on or after June 1, 2005, is eligible for the professional
 21 retirement option allowance under 19-20-804(1)(b).

22 (b) A retired member whose retirement allowance was terminated following reinstatement as an active
 23 member is not eligible for the professional retirement option allowance under 19-20-804(1)(b) unless the
 24 member has been credited with at least 2 full years of membership service after [the effective date of this act].

25 (3) To receive a service retirement allowance or a professional retirement option allowance, a member
 26 must have terminated employment in all positions from which the member is eligible to retire and ~~files~~ filed a
 27 written application with the retirement board ~~a written application.~~"

28

29 **Section 3.** Section 19-20-802, MCA, is amended to read:

30 **"19-20-802. Early retirement eligibility and allowance.** (1) A Subject to 19-20-804(5), a member who

1 is not eligible for a service or professional retirement pursuant to 19-20-801 but who has at least 5 years of
 2 creditable service and who has attained the age of 50 may retire from service and be eligible for an early
 3 retirement allowance if the member files with the retirement board the member's written application.

4 (2) The early retirement allowance must be determined as prescribed in 19-20-804(1) and section 5,
 5 Chapter 549, Laws of 1981, with the exception that the allowance will be reduced as follows:

6 (a) by 1/2 of 1% multiplied by the number of months up to a maximum of 60 months by which the
 7 retirement date precedes the date on which the member would have retired had the member attained 60 years
 8 of age or had the member completed 25 years of creditable service; and

9 (b) by 3/10 of 1% multiplied by the number of months in excess of the 60 months in subsection (2)(a)
 10 but not to exceed 60 additional months that the retirement date precedes the date on which the member would
 11 have retired had the member attained 60 years of age or had the member completed 25 years of creditable
 12 service."

13

14 **Section 4.** Section 19-20-804, MCA, is amended to read:

15 **"19-20-804. Allowance for service retirement or professional retirement option -- postretirement**
 16 **earnings and reemployment limitations.** (1) ~~Upon termination, a member who has attained normal retirement~~
 17 ~~age must~~ (a) A member eligible for a service retirement pursuant to 19-20-801(1) is entitled to receive a
 18 retirement allowance equal to one-sixtieth of the member's average final compensation, as limited by 19-20-715,
 19 multiplied by the sum of the number of years of creditable service and service transferred under 19-20-409.

20 (b) A member eligible under 19-20-801(2) for the professional retirement option allowance is entitled
 21 to receive an allowance equal to 2% of the member's average final compensation, as limited by 19-20-715,
 22 multiplied by the sum of the member's years of creditable service and service transferred under 19-20-409.

23 (2) Except as provided in subsection (4), a retired member may be employed part-time in a position
 24 specified in 19-20-302 and may earn, without loss of retirement benefits, an amount not to exceed the greater
 25 of:

26 (a) one-third of the sum of the member's average final compensation; or

27 (b) one-third of the median of the average final compensation for members retired during the preceding
 28 fiscal year as determined by the retirement board.

29 (3) On July 1 of each year following the member's retirement effective date, the maximum earning
 30 amount allowed under subsection (2)(a) is increased by an amount equal to the consumer price index increase

1 for urban wage earners compiled by the bureau of labor statistics of the United States department of labor or
2 its successor agency in the preceding year.

3 (4) (a) Except as provided in subsection (5), the retirement benefit of a retired member employed in a
4 full-time position or earning more than allowed by subsection (2) must be canceled beginning in the month in
5 which the retired member returns to full-time employment or earns more than allowed.

6 (b) The retirement benefits of a retired member who was employed in a full-time position or who
7 exceeded the amount that the retired member was eligible to earn under subsection (2) and who was
8 reemployed for less than 1 year must, upon termination of employment, be reinstated beginning in the later of
9 either the month following termination or July 1 of the school year following the date on which the retired member
10 was reemployed. The reinstated retirement benefit is the amount that the retired member would have been
11 entitled to receive had the retired member not returned to employment.

12 (c) Upon retirement after cancellation of a retired member's benefit pursuant to subsection (4)(a), a
13 retired member who is reemployed as an active member for a minimum of 1 year of full-time service must
14 receive a recalculated benefit. The recalculated benefit is based on the service credit accumulated at the time
15 of the member's previous retirement plus any service credit accumulated subsequent to reemployment.

16 (5) If an early-retired member under 19-20-802 is reemployed with the same employer within 30 days
17 from the member's effective date of retirement or if the early-retired member is guaranteed reemployment with
18 the same employer, the member must be considered to have continued in the status of an active member and
19 not to have separated from service. Any retirement allowance payments received by the member must be repaid
20 to the system, together with interest, at the actuarially assumed rate, and the retirement allowance must be
21 terminated."

22
23 **NEW SECTION. Section 5. State contribution.** On and after July 1, 2004, the state shall contribute
24 monthly from the general fund to the pension trust fund an amount equal to 1.88% of the earned compensation
25 of each member. The board shall certify the amount due under this section, and the state treasurer shall transfer
26 that amount to the pension trust fund within 1 week. The contributions under this section are statutorily
27 appropriated, as provided in 17-7-502, to the pension trust fund.

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29 **NEW SECTION. Section 6. Codification instruction.** [Section 5] is intended to be codified as an
30 integral part of Title 19, chapter 20, part 6, and the provisions of Title 19, chapter 20, part 6, apply to [section 5].

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2 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2003.

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